was bought is thus made to determine the agency. The important question should be whether the son was using the machine for his own purposes. Though the father may derive some incidental benefit by his son's pleasure, it is an argument more fictitious than real to say that the son becomes his father's agent to supply himself with pleasure. It is a mere evasion of the rule that a parent is not liable for the torts of his child. *Kumba* v. *Gilham*, 103 Wis. 312, 79 N. W. 325; *Chastain* v. *Johns*, 120 Ga. 977, 48 S. E. 343. Where the son has a general permission to drive the family horse, the father has been held not liable. *Maddox* v. *Brown*, 71 Me. 432. And it has become well settled that an automobile is not *per se* a dangerous machine. *Daily* v. *Maxwell*, 152 Mo. App. 415, 133 S. W. 351; *Cunningham* v. *Castle*, 127 N. Y. App. Div. 580, 111 N. Y. Supp. 1057. On facts similar to those of the principal case the opposite result has been reached. *Doran* v. *Thomsen*, 76 N. J. L. 754, 71 Atl. 296; *Maher* v. *Benedict*, 123 N. Y. App. Div. 579, 108 N. Y. Supp. 228. *Contra*, *Daily* v. *Maxwell*, *supra*.

AGENCY — RATIFICATION OF UNAUTHORIZED CONTRACTS — CONTRACT OF INSURANCE RATIFIED AFTER OCCURRENCE OF LOSS. — A contract of insurance was made by an unauthorized agent on behalf of the plaintiff but the premium was not paid. *Held*, that ratification after loss is ineffectual. *Kline Bros. & Co.* v. *Royal Ins. Co.*, 192 Fed. 378 (Circ. Ct., S. D. N. Y.).

A shipowner insured himself as "carrier, or for account of whom it may concern" upon a cargo of goods and after a total loss collected the amount of the policy. The owner of the cargo sued him for the money remaining after his loss as carrier was covered. *Held*, that the suit is a ratification and the plaintiff may recover. *Symmers* v. *Carroll*, 134 N. Y. Supp. 170 (N. Y., App. Div.). See NOTES, p. 729.

AMBASSADORS AND CONSULS — RIGHT OF CONSUL TO BE APPOINTED ADMINISTRATOR OF FOREIGN DECEDENT'S ESTATE. — Under the most favored nation clause in a treaty, an Italian consul applied for letters of administration upon the estate of a deceased Italian. The treaty with the most favored nation provided that the consul might "intervene in the possession, administration, and judicial liquidation of the estate" of a deceased citizen of his nation "for the benefit of creditors and legal heirs." *Held*, that granting letters of administration to the public administrator is not error. *Rocca* v. *Thompson*, 32 Sup. Ct. 207.

The question here involved is important, inasmuch as at least two other treaties have a like provision. TREATY WITH SPAIN OF JULY 3, 1902, Art. XXVIII, 33 U. S. STAT. AT LARGE 2120; CONVENTION WITH GREECE OF DEC. 2, 1902, Art. XI, 33 U. S. STAT. AT LARGE 2129. This decision has settled the law on the point against the weight of authority in the state courts. *In re Wyman*, 191 Mass. 276, 77 N. E. 379; *Carpigiani* v. *Hall*, 55 So. 248 (Ala.); *Matter of Scutella*, 145 N. Y. App. Div. 156, 129 N. Y. Supp. 20. *Contra*, *Matter of Logiorato*, 34 N. Y. Misc. 31, 69 N. Y. Supp. 507. It is the duty of an American consul only to deliver up the effects of the deceased to his legal representative. U. S. REV. STAT., 1878, § 1709. Since every state has the control over the administration of estates within its territories, it would seem that the treaty should expressly state the fact, if this right is to be ceded. *Lanfear* v. *Ritchie*, 9 La. Ann. 96. See 5 MOORE, DIG. INT. LAW, 123. In other treaties it has been expressly stipulated. TREATY WITH PERU OF AUG. 31, 1887, Art. XXXIII, 25 U. S. STAT. AT LARGE, 1461. Moreover, the correspondence between the parties to the treaty with Italy shows that the consul was not meant to have the right of administration, since the Italian ambassador requested a change to that effect and was answered that such a change was impracticable on account of the large amount of territory covered by one

consul. See 5 MOORE, DIG. INT. LAW, 122–123. The technical meaning of the word "intervene" is to come into a proceeding already instituted, and it is entirely reasonable to assume that all that was meant to be given was a right to come in and represent absent heirs or creditors. *Cf. Succession of Rabasse*, 47 La. Ann. 1454.

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — LIFE INSURANCE POLICIES. — A bankrupt had a policy of insurance on his life which had no cash surrender value. The Bankruptcy Act, § 70 *a* (5), provides "that when any bankrupt shall have any insurance policy which has a cash surrender value payable to himself, his estate, or personal representatives, he may . . . pay or secure to the trustee the sum so ascertained and stated, and continue to hold, own and carry such policy . . ., otherwise the policy shall pass to the trustee as assets." *Held*, that the policy does not pass to the trustee. *In re Judson*, 192 Fed. 834 (C. C. A., Second Circ.).

For a discussion of the principles involved, see 24 HARV. L. REV. 317.

BANKRUPTCY — STATE BANKRUPTCY AND INSOLVENCY LAWS — EFFECT OF NATIONAL BANKRUPTCY LAW ON STATE LAWS. — The National Bankruptcy Act, § 4 *b*, provides that a farmer cannot be forced into involuntary bankruptcy. *Held*, that a farmer may be forced into involuntary bankruptcy under a state law. *Lace* v. *Smith*, 82 Atl. 268 (R. I.).

For a discussion of the principles involved, see 22 HARV. L. REV. 547.

BILLS AND NOTES — NEGOTIABILITY — NOTE RECITING ITS CONSIDERATION TO BE A CONDITIONAL SALE. — A note recited that its consideration was the sale of a chattel, the title to which was to remain in the seller until the note was paid, the risk of loss to be upon the buyer, the maker to furnish security when demanded, and if the maker disposed of any of his property, the payee to have the right to declare the note due. *Held*, that this note is not negotiable. *Molsons Bank* v. *Howard*, 21 Ont. Wkly. Rep. 278.

To be negotiable a note must be unconditional and certain in time. *Hartley* v. *Wilkinson*, 4 M. & S. 25; *Mahoney* v. *Fitzpatrick*, 133 Mass. 151. A recital in a note of the consideration for which it was given does not make its promise conditional. *Hereth* v. *Meyer*, 33 Ind. 511; *Siegel* v. *Chicago, etc. Bank*, 131 Ill. 569, 23 N. E. 417. But if the consideration is stated to be an executory promise to be performed before or at maturity, then the maker's promise is conditional. *Hodges* v. *Hall*, 5 Ga. 163; *Fletcher* v. *Thompson*, 55 N. H. 308. In a conditional sale with the risk of loss on the seller, there is in substance, as in form, an executory contract, the seller to perform when the price is paid, and hence the recital of this on a note makes its promise conditional. *Sloan* v. *McCarty*, 134 Mass. 245. But if the risk of loss is on the buyer, the so-called conditional sale is in substance an executed sale with a mortgage back, and the maker's promise is absolute. *Chicago Ry. Equipment Co.* v. *Merchants' Bank*, 136 U. S. 268, 10 Sup. Ct. 999. The decision in the principal case would, therefore, be based more properly on the ground that the provisions allowing the payee to declare the note due upon certain conditions make the time of payment uncertain. *First National Bank* v. *Bynum*, 84 N. C. 24; *Carrol, etc. Bank* v. *Strother*, 28 S. C. 504, 6 S. E. 313. Also, the promise to give additional security, a promise to do something other than pay money, may perhaps make the note non-negotiable. *Holliday State Bank* v. *Hoffman*, 85 Kan. 71, 116 Pac. 239. *Contra, Dowie* v. *Joyner*, 25 S. C. 123.

BILLS OF PEACE — COMMON ISSUES AS BASIS FOR EQUITY JURISDICTION. — Several persons sued a telephone company in tort for removing telephones from their premises. The company filed a bill in chancery to have